

Message Text

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ORIGIN EB-08

INFO OCT-01 EA-07 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 L-03 FEA-01
SS-15 H-01 /045 R

DRAFTED BY EB/OA/AVP:SCKEITER:MSS
APPROVED BY EB/OA:MHSTYLES
EB/OA/AVP:AJWHITE(DRAFT)
EB/AN:TROESCH
COMM/BIEPR:EGRAUMAN
DOT/OST:LERICSON (INFO)
EA/PHL:JSARTORIOUS(DRAFT)
CAB/BIA:JHORNEMAN (INFO)
L/EB:PMICKEY
FEA:KBAUER (INFO)

-----056629 030631Z /13

R 022211Z AUG 77
FM SECSTATE WASHDC
TO AMEMBASSY MANILA

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E.O. 11652: N/A

TAGS: EAIR, US, RP

SUBJECT: CIVAIR - DISCRIMINATORY JET FUEL PRICING

E

REF: 76 STATE 283658

1. NORTHWEST HAS AGAIN RAISED ISSUE OF PHILIPPINE TAX
ON REFINED PETROLEUM PRODUCTS, INDICATING THAT A NUMBER
OF FOREIGN AIRLINES, AS WELL AS THE PHILIPPINE AIRLINES
(PAL), ARE EXEMPTED. FLYING TIGER LINE (FTL) CONFIRMS
THAT IT TOO IS SUBJECTED TO THE TAX, WHICH IT CLAIMS IS
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5.81 CENTS A GALLON. FYI ONLY. PAN AM IS AFFECTED BUT
DOES NOT DESIRE TO BE MENTIONED IN THIS CONNECTION
PENDING RESOLUTION OF OTHER ISSUES WITH PHILIPPINE
GOVERNMENT. END FYI.

2. FTL ALSO SAYS THAT AIRLINES ARE PROTESTING THE TAX
THROUGH IATA. DOES EMBASSY KNOW WHAT PROGRESS, IF ANY,

HAS BEEN MADE THROUGH THAT CHANNEL?

3. A DEPARTMENT OF COMMERCE FINDING OF 1971 EXEMPTS PHILIPPINE AIRCRAFT FROM PAYMENT OF CERTAIN TAXES ON AIRCRAFT SUPPLIES, INCLUDING FUEL AND LUBRICANTS, ON THE GROUNDS THAT QUOTE SUBSTANTIALLY RECIPROCAL PRIVILEGES UNQUOTE ARE EXTENDED US AIRLINES IN THE

PHILIPPINES. (QUOTED LANGUAGE IS FROM SECTION 309 OF THE TARIFF ACT AND SECTION 4221 OF THE INTERNAL REVENUE CODE.) PAL ALSO ENJOYS ACCESS TO DOMESTIC FUEL IN THE U.S., ALTHOUGH THE FEDERAL ENERGY ADMINISTRATION'S REGULATIONS PROVIDE THAT SUCH ACCESS MAY BE CUT OFF IN CASES OF DISCRIMINATION BY THE FOREIGN COUNTRY AGAINST U.S. AIRLINES.

4. THUS, WHILE USG HAS NO GROUNDS FOR EFFECTIVE OBJECTION TO THE PHILIPPINE TAX IN TERMS OF PHILIPPINE OBLIGATIONS UNDER A BILATERAL AGREEMENT, IT DOES HAVE SCOPE FOR COUNTERBALANCING ACTION.

5. THEREFORE, UNLESS EMBASSY SEES OBJECTION, PLEASE EXPLORE WITH APPROPRIATE PHILIPPINE AUTHORITIES THE IDEA OF AN EXCHANGE OF NOTES WHICH WOULD SUPPLEMENT THE INTERIM AGREEMENT BY ADDING A PROVISION FOR RECIPROCAL EXEMPTION FROM PAYMENT OF TAXES ON SUPPLIES AND LIMITED OFFICIAL USE

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EQUIPMENT. USE POINTS ABOVE AS APPROPRIATE. FAILURE TO SECURE TAX EXEMPTION PRIVILEGES WOULD NECESSITATE WITHDRAWAL OF COMMERCE FINDING. ITEMS COVERED BY WITHDRAWAL WOULD DEPEND ON HOW PHILIPPINE GOVERNMENT TREATS OTHER AVIATION SUPPLIES, BUT AT MINIMUM PAL WOULD BE SUBJECT TO U.S. TAX ON IMPORTED FUEL OF 1.5 CENTS PER GALLON. (THERE IS NO TAX ON DOMESTIC FUEL USED FOR COMMERCIAL SERVICES.) LOSS OF ACCESS TO U.S. DOMESTIC FUEL WOULD BE MORE SERIOUS. BONDED FUEL IS SIGNIFICANTLY MORE EXPENSIVE AND RELIABLE SUPPLIES REQUIRE DETAILED, FIRM ARRANGEMENTS MONTHS IN ADVANCE.

6. DEPARTMENT WOULD CONSIDER PHILIPPINE REFUSAL TO EXCHANGE EXEMPTIONS SIMILAR TO THOSE ALREADY EXCHANGED WITH OTHER COUNTRIES AS DISCRIMINATORY FOR PURPOSES OF FEA ACTION MENTIONED PARA. 2.

7. REPORT RESULTS. IF INITIAL SOUNDINGS ARE FAVORABLE, DEPARTMENT WILL PROVIDE DRAFT TEXT.

8. WHILE NOT DIRECTLY RELATED TO ABOVE, EMBASSY SHOULD BE AWARE THAT IN 1976 AIR MANILA BOUGHT 1,220,000 GALLONS

OF DOMESTIC FUEL WHEN IT HAS AN ALLOCATION OF ONLY
338,000 GALLONS. THE MATTER HAS BEEN REFERRED TO FEA'S
COMPLIANCE DIVISION.

9. FOR YOUR BACKGROUND. THIS IS NOT FIRST CASE OF
AVIATION FUEL PRICE DISCRIMINATION TACKLED BY DEPARTMENT.
IN RECENT YEARS BOTH AUSTRALIA AND BRAZIL HAVE REMOVED
DISCRIMINATORY FEATURES OF THEIR PRICE STRUCTURES AFTER

STRONG USG REPRESENTATIONS, AND THE POSSIBILITY
OF WITHDRAWING US DOMESTIC FUEL ALLOCATION IS A MAJOR
FACTOR IN CURRENT DISCUSSIONS WITH COLOMBIA. CHRISTOPHER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: JET FUEL, TAXES, PRICES
Control Number: n/a
Copy: SINGLE
Sent Date: 02-Aug-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE181472
Document Source: CORE
Document Unique ID: 00
Drafter: SCKEITER:MSS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770277-0898
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t197708104/aaaadkvq.tel
Line Count: 127
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a4a5144f-c288-dd11-92da-001cc4696bcc
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Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
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Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 283658
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 23-Feb-2005 12:00:00 am
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SAS ID: 1413481
Secure: OPEN
Status: NATIVE
Subject: CIVAIR - DISCRIMINATORY JET FUEL PRICING E
TAGS: EAIR, US, RP, NORTHWEST AIRLINES
To: MANILA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/a4a5144f-c288-dd11-92da-001cc4696bcc
Review Markings:
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